

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF SAHUARITA

THIS AGREEMENT is entered into this date August 1st 2006, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the Town of Sahuarita, acting by and through its Council and Town Mayor, the ("Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 9-240 to enter into this Agreement and has by resolution a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

3. Upon completion of the construction of improvements to I-19 traffic interchange the State will abandon ownership jurisdiction and maintenance responsibilities with the approval and resolution of the State's Transportation Board for the east and west Frontage Roads of I-19 from Duval Mine Road north to Avenida Valle Verde Del Norte and from Duval Mine Road south to Duval Road. The Town will accept ownership jurisdiction and maintenance responsibilities upon completion of the project for the east and west Frontage Roads of I-19 from Duval Mine Road north to Avenida Valle Verde Del Norte and from Duval Mine Road south to Duval Road, along with two sections of Duval Mine Road from station 23+21.15 to station 46+00 and from station 56+00 to station 73+60. The Town will also maintain sidewalks along Duval Mine Road including the segments cross the I-19 Bridge

The responsibility by each of the parties is defined in this Agreement under the Scope of Work.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

NO. 28353
Filed with the Secretary of State
Date Filed: 8/1/06
Janice K. Chewers
Secretary of State
By: [Signature]

II. SCOPE OF WORK

1. The State Will:

a. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction of the Project, and submit same to the Town for concurrence.

b. Advertise for bids and award one or more construction contract(s) for the project. Administer same and make all payments to the contractor(s). Be responsible for contractor claims for additional compensation caused by project delays attributable to the State.

c. Upon completion of the Project by the State and approval by resolution of the State's Transportation Board, abandon and transfer ownership jurisdiction and maintenance responsibilities for the two frontage roads east and west of the I-19, from Duval Mine Road north to Avenida Valle Verde Del Norte, and from Duval Mine Road south to Duval Road, along with two sections of Duval Mine Road from station 23+21.15 to station 46+00 and from station 56+00 to station 73+60.

d. Keep drainage easements as needed.

e. Grant the Town the necessary encroachment permit(s) to perform all planned maintenance work.

2. The Town Will:

a. Review the design documents required for construction of the Project, and provide comments to the State as appropriate.

b. Confer with and obtain written consent from the State on Project-related contract modifications.

c. Be responsible for any design consultant and contractor claims for additional compensation caused by Project delays attributable to the Town.

d. Maintenance for the sidewalks will consist of keeping the sidewalk surfaces and surrounding areas free of all debris, trash and litter. The sidewalks surfaces will be repaired or replaced as necessary to correct trip hazards, and erosion around the sidewalks to maintain the final grade at the completion of traffic interchange improvements of the I-19.

e. Upon completion of the Project by the State, approval by resolution of the State's Transportation Board, accept ownership jurisdiction and maintenance responsibilities for the two frontage roads east and west of the I-19, from Duval Mine Road north to Avenida Valle Verde Del Norte, and from Duval Mine Road south to Duval Road, along with two sections of Duval Mine Road from station 23+21.15 to station 46+00 and from station 56+00 to station 73+60.

f. Upon execution of this Agreement, and completion of the Project by the State waive the requirements of Arizona revised Statue 28-7209.

g. Not break the State's new control of access established on Duval Mine Road within the Towns jurisdiction as shown on the right-of-way plans, from Abrego Drive on the east to the new I-19 Frontage Road on the west, for any reason such as utilities or driveway access.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of the I-19 improvements by the State and approval by resolution of the Transportation Board. Upon completion of the improvements, the State will abandon and transfer ownership jurisdiction for the two frontage roads east and west of I-19 along with portions of Duval Mine Road as mentioned above in II. 1.c. The Town will have perpetual maintenance responsibilities for the new sidewalk along Duval Mine Road. This Agreement may be cancelled within a thirty-day (30) written notice to either party prior to the award of the construction contract. It is understood and agreed that, in the event the Town terminates this Agreement, the State shall in no way be obligated to maintain the two frontage roads.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes Sections 38-511.

4. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Sections 12-1518

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17th Avenue, Mail Drop 616E
Phoenix, AZ. 85007 FAX (602) 712-7424

Town of Sahuarita
Town Manager
850-B West Sahuarita Road
P.O. Box 879

10. Pursuant to Arizona Revised Statutes, Section 11-952 (D), attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

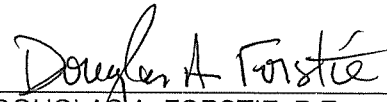
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written

TOWN OF SAHUARITA


By 
CHARLES E. OLDHAM
Mayor

STATE OF ARIZONA

Department of Transportation

By 
DOUGLAS A. FORSTIE, P.E.
Deputy State Engineer, Operations

ATTEST

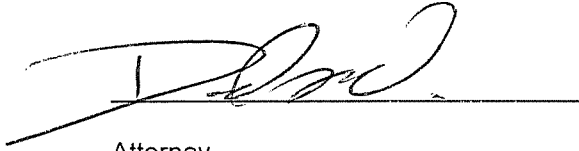
By 
SANDRA R. OLIVAS, CMC
Town Clerk

5 January 2005-ly

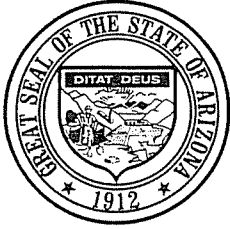
ATTORNEY APPROVAL FORM
FOR THE TOWN OF SAHUARITA

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF SAHUARITA, an agreement among public agencies, which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954, and declare this agreement to be in proper form and within the powers and authority granted to the TOWN under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 10 day of July, 2008



Attorney



STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
CIVIL DIVISION
TRANSPORTATION SECTION
MEMORANDUM

Jeffrey T. Murray
Assistant Attorney General

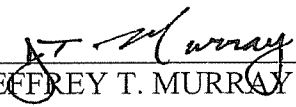
Direct: 602-542-8859
Fax: 602-542-3646

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR04-1401 (**JPA04-076**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED July 21st, 2006.


JEFFREY T. MURRAY
Assistant Attorney General

JTM:dgr
Attachment
#970855